



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R4-ES-2023-0044; FXES11130400000-223-FF04EF4000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Florida Scrub-Jay; Indian River County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from Remington Stewart, LLP (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally threatened Florida scrub-jay (*Aphelocoma coerulescens*) incidental to the construction and operation of a commercial development in Indian River County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and on the Service's preliminary determination that the proposed permitting action may be eligible for a categorical exclusion pursuant to the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations, the Department of the Interior's (DOI) NEPA regulations, and the DOI Departmental Manual. To make this preliminary determination, we prepared a draft environmental action statement and low-effect screening form, both of which are also available for public review. We invite comment from the public and local, State, Tribal, and Federal agencies.

DATES: We must receive your written comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Obtaining Documents:* You may obtain copies of the documents online in Docket No. FWS-R4-ES-2023-0044, at <https://www.regulations.gov>.

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by one of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R4-ES-2023-0044.
- *U.S. mail:* Public Comments Processing; Attn: Docket No. FWS-R4-ES-2023-0044; U.S. Fish and Wildlife Service; MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Alfredo Begazo, by U.S. mail (see **ADDRESSES**), by telephone at 772-469-4234 or via email at alfredo_begazo@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service (Service), announce receipt of an application from Remington Stewart, LLP (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay) incidental to the construction and operation of a commercial development in Indian River County, Florida. We request public comment on the application, which includes the applicant’s habitat conservation plan (HCP), and on the Service’s preliminary determination that this proposed ITP qualifies as “low effect,” and may qualify for a categorical exclusion pursuant to the Council on Environmental Quality’s National Environmental Policy Act (NEPA) regulations (40 CFR 1501.4), the Department of the Interior’s (DOI) NEPA regulations (43 CFR 46), and the DOI’s Departmental Manual (516 DM 8.5(C)(2)). To make this preliminary determination, we prepared a draft environmental action statement and low-

effect screening form, both of which are also available for public review.

Proposed Project

The applicant requests a 5-year ITP to take scrub-jays via the conversion of approximately 0.93 acre (ac) of occupied nesting, foraging, and sheltering scrub-jay habitat incidental to the construction of a commercial development on a 3.11-ac parcel in in Section 30; Township 38 South; Range 30 East; Indian River County, Florida. The applicant proposes to mitigate for take of the scrub-jays by purchasing credits equivalent to 1.86 ac of scrub-jay-occupied habitat from a Service-approved conservation bank. The Service would require the applicant to purchase the credits prior to engaging in any construction phase of the project.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project—including the construction of a commercial building, driveway, parking space, green areas, stormwater pond, and associated infrastructure (e.g., electric, water, and sewer lines)—would individually and cumulatively have a minor effect on the scrub-jay and the human environment. Therefore, we have preliminarily determined that the proposed ESA section 10(a)(1)(B) permit would be a "low-effect" ITP that individually or cumulatively would have a minor effect on the scrub-jay and may qualify for application of a categorical exclusion pursuant to the Council on Environmental Quality's NEPA regulations, DOI's NEPA regulations, and the DOI Departmental Manual. A "low-effect"

ITP is one that would result in (1) minor or nonsignificant effects on species covered in the HCP; (2) nonsignificant effects on the human environment; and (3) impacts that, when added together with the impacts of other past, present, and reasonable foreseeable actions, would not result in significant cumulative effects to the human environment.

Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested ITP. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER0563271 to Remington Stewart, LLP.

Authority

The Service provides this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32), and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1500-1508 and 43 CFR 46).

Robert L. Carey,
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Florida Ecological Services Office.